

Appeal from decision of Montana State Office, Bureau of Land Management, dismissing a protest concerning simultaneous oil and gas lease application. M 54526.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease applicant complies with 43 CFR 3112.2-1(b), where the space for the agent's signature contains the initials of the filing service and the holographically signed last name of the authorized agent of the filing service.

APPEARANCES: Linda R. Blumkin, pro se; William D. Burdett, Esq., Dallas, Texas, for Robert Higginbotham.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Linda R. Blumkin appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated May 3, 1982, which dismissed her protest of the issuance of an oil and gas lease to Robert Higginbotham, for parcel MT 144. Higginbotham's simultaneous oil and gas lease application was drawn with first priority in the Montana January 1982 simultaneous oil and gas lease drawing. BLM's decision dismissing Blumkin's protest stated:

Your protest received April 26, 1982, objected to issuance of an oil and gas lease to the applicant drawn priority number one, Robert Higginbotham, for Parcel MT 144 in the January 1982 simultaneous drawing. Your protest stated that Robert Higginbotham's application failed to comply with Regulation 3112.2-1(b).

Your protest is dismissed for the following reason: Regulation 43 CFR 3112.2-1(b) states in part, "Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship." The name "Robert Higginbotham, applicant" was typed in the Applicant's Signature space. In the Agent's Signature space "by FEC, by" was typed and "Turley" was holographically signed. The applicant has complied with the regulation. On January 22, 1982, Federal Energy Corporation submitted a blank copy of their Service Agreement in which the corporation is referred to as FEC. Also submitted was a letter authorizing Claudette Turley, among others, to sign applications on behalf of Federal Energy Corporation's clients.

In support of her protest, Blumkin had submitted a copy of the Board decision, Charles Goodrich, 60 IBLA 25 (1981), aff'd, Goodrich v. Watt, No. 82-0404 (D.D.C. Aug. 13, 1982). In response BLM provided:

The enclosed Decision Charles Goodrich 60 IBLA 25 (1981) concludes that a simultaneous oil and gas lease application is not signed by a corporate agent in accordance with 43 CFR 3112.2-1(b) where the space for the Agent's Signature contains only three initials and the name of the corporation. We do not interpret this decision as addressing the acceptability of initials for the corporation, only that these initials do not reveal the name of the person signing the application.

In her statement of reasons for appeal Blumkin states:

By letter dated April 21, 1982 I protested the application of Robert Higginbotham for parcel MT-144 on the ground that the signature was deficient under 43 CFR 3112.2-1(b). On Mr. Higginbotham's application, the block for the agent's signature reads merely "by FEC agent, by Turley." (The word "Turley" is handwritten and the preceding words are typed.) As I stated in my protest, such a signature is deficient because the initials "FEC" are insufficient to identify an entity or individual. It is impossible to tell the name of the person or entity represented by the initials "FEC," whether it is a natural person, partnership, company or corporation, or anything else about it. Moreover, the single name "Turley" is insufficient to identify the signing person particularly where, as here, the identity of the entity on behalf of which he is signing is not revealed.

In an answer to the statement of reasons counsel for Higginbotham states that Higginbotham's application contained a reference to an attached statement of qualifications; that FEC's service agreement, which was on file with BLM, defined Federal Energy Corporation as "FEC," indicating that the terms are synonymous; and that by letter to BLM dated January 18, 1982, FEC

identified Turley as an agent of FEC, authorized to execute applications on behalf of FEC's clients.

Counsel for Higginbotham argues that the manner in which the agent's signature portion of Higginbotham's application was completed complied fully with the requirements of 43 CFR 3112.2-1(b); that the agent's signature provides sufficient information to identify both Higginbotham's filing agency and its representative, thus satisfying the requirements of prior Board decisions; and that, because the identity of Higginbotham's agent and its representative were unambiguously disclosed on the application, BLM was not required to refer to any extraneous documents to clarify the application (Answer at 2 and 3).

The regulation, 43 CFR 3112.2-1(b), provides:

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used. [Emphasis added.]

In Vincent M. D'Amico, 55 IBLA 116, appeal dismissed, D'Amico v. Watt, No. 81-2050 (D.D.C. Aug. 31, 1981), the Board held that the handwritten words "FEC agent for D'Amico," appearing in the box labeled "Agent's Signature," on the application form were not acceptable under 43 CFR 3112.2-1(b), and rendered the application deficient. We concluded in that case that the term "signatory" in 43 CFR 3112.2-1(b) referred to "the person signing on behalf of a corporate agent." Id. at 122 (emphasis in original). We also suggested that an appropriate signature for a corporate filing service filing on behalf of Robert Jones, applicant, would be: John Brown, Vice President, Acme, Inc., agent for Robert Jones. Id. at 123.

In Charles Goodrich, supra, the question was whether the application was "signed" in accordance with 43 CFR 3112.2-1(b), where in the box labeled "Agent's Signature" the following was handprinted in ink: "NCC/Federal Resources Corp." We held that the initials "NCC" did not reveal the name of the signatory, as required by 43 CFR 3112.2-1(b).

In Leroy G. Boudreaux, 62 IBLA 255, appeal docketed, Boudreaux v. Department of the Interior, No. 82-1328 (D.D.C. May 13, 1982), we affirmed the rejection of a simultaneous oil and gas lease application because the application had not been completed in accordance with regulation 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f) on the application were left unanswered. Given our disposition of the case, we specifically declined to reach the question of whether the Boudreaux application had been properly signed. See also Martha E. Ehbrecht, 62 IBLA 387 (1982). It bore Boudreaux's name in the box titled "Applicant's

Signature" and the words "by FEC agent by Largin" in the box titled "Agent's Signature." The words "by FEC agent" were typed; the word "Largin" was written holographically.

[1] The present case requires resolution of the exact question left undecided in Boudreaux. Here, the application reveals the name of the applicant (Higginbotham), the name of the signatory (Turley), and their relationship (Turley being a representative of FEC, agent for Higginbotham). While we have indicated in D'Amico an appropriate signature for a corporate filing service, we cannot find that the signature in this case is unacceptable under the regulations. Appellant seeks to create an ambiguity in this case where none exists. The regulations indicate that the name of the signatory need not include a first name or initials, thus, the signature "Turley" was not improper. Nor did the use of "FEC" render the application deficient as appellant claims. FEC was identifiable from the application. It apparently was not necessary for BLM to resort to other sources to identify FEC. From the application, BLM was able to derive that FEC was Higginbotham's agent, and that the application was signed by FEC's representative, Turley. BLM was then able to review documents to determine whether FEC had complied with 43 CFR 3102.2-6. 1/

In the upper left hand corner of an oil and gas lease application is the following: "If statements of qualifications have been filed previously, identify serial records involved \* \* \*. Attach statements if the statements on file are not current." In that space on the application of Higginbotham, appeared the typewritten words "See attachments" and also the stamped word "ATTACHED." Presumably, in this case, there was compliance with 43 CFR 3102.2-6(b). That regulation requires the filing of a copy of the uniform agreement with the application, and within 15 days of the close of the filing period, a list of the name and address of each applicant filing under the agreement. Arthur H. Kuether, 65 IBLA 184, 191 (1982). The case record contains a copy of the uniform agreement and a letter authorizing one Claudette Turley to sign applications on behalf of clients of Federal Energy Corporation. 2/

We find that Higginbotham complied with 43 CFR 3112.2-1(b) and that Blumkin's protest properly was dismissed. If all is regular, BLM may issue the lease to Higginbotham.

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1/ On Feb. 26, 1982, the Department published interim final regulations which revised 43 CFR Subpart 3102 effectively eliminating the requirement to file the agent qualifications found in 43 CFR 3102.2-6. 47 FR 8544 (Feb. 26, 1982).

2/ There is no copy of a list of clients' names and addresses in the record. Counsel for Higginbotham states on appeal that such a list was filed. The Montana State Office found that Higginbotham was qualified. Therefore, we must assume that the list was filed. It is required for compliance with 43 CFR 3102.2-6(b).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Montana State Office is affirmed.

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Bruce R. Harris  
Administrative Judge

We concur:

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Will A. Irwin  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge